

(2012) 04 JH CK 0073
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1938 of 2011

Firoz Khan

APPELLANT

Vs

The State of Jharkhand and others

RESPONDENT

Date of Decision : 16-04-2012

Acts Referred:

Citation : (2012) 2 JCR 610 : (2012) 3 JLJR 441

Hon'ble Judges : Prakash Tatia, C.J;Aparesh Kumar Singh, J

Bench : Division Bench

Advocate : Suraj Kumar and Rohit Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties. In these four writ petitions, learned counsel for the petitioners submitted that these are not the matters connected with the other bunch of cases which have been listed today for final disposal at the admission stage and requested for hearing all these matters.

2. Learned counsel for the petitioners submitted that in writ petitions being W.P. (C) Nos. 1938 of 2011 and 1939 of 2011, the petitioners are descendants of the original raiyats whereas in the writ petition being W.P.(C) Nos. 1947 of 2011 and 1948 of 2011, the petitioners are the purchasers of the land from the raiyats. The petitioners' contention is that it may be true that in the year 1959 a land acquisition notification may have been issued, a copy of which has been placed on record by the respondents along with their counter and State's contention may be that the compensation amount has been deposited in the Treasury which has not been accepted by the land owners. According to the learned counsel for the writ petitioners, the writ petitioners are in possession even after land acquisition proceedings. The possession of land was never taken over by the State Government. Therefore, the writ petitioners are entitled to protect their possession. It is also submitted that no eviction proceedings, was ever initiated against writ petitioners and therefore, without any authority of law the State

wants to dispossess the writ petitioners from the land in question. Learned counsel for the petitioners also submitted that petitioners tried to obtain the copies of the proceedings initiated against other persons of the same locality but these petitioners found that their names are not there in the eviction proceedings.

3. The respondent-State has submitted counter affidavit and stated that in the year 1959, the land was acquired for the purpose of Ranchi School of Engineering consisting of its three units namely Ranchi Polytechnic College, Ranchi Womens Polytechnic College and another institute was I.T.I. for which 28.54 acres land was needed and for that purpose, a land acquisition notice was issued and thereafter the possession of the land was taken over by the documents annexure-C dated 15.5.1961 and the petitioners are encroachers only. We have considered the submissions of the learned counsel for the parties and perused the facts of the case. It is not disputed that a land acquisition proceeding was initiated and land was acquired and compensation amount if not taken by the then owners of the land then it was deposited in the Treasury but because of the reason of non-acceptance of the compensation amount, it cannot be inferred that the ancestors of the petitioners already died during the pendency of the land acquisition proceedings or before that, as suggested by the learned counsel for the petitioners. In fact, the petitioners want to challenge the land acquisition proceeding of the year 1959 wherein the possession was taken over in the year 1961. In the writ jurisdiction, the petitioners want to raise several disputed question of facts including that the ancestors of the petitioners, who are claimed to be earlier title holders, died during the pendency of the land acquisition proceedings and they did not accept the compensation amount. No material particular and facts are available on record with respect to these facts except the bald allegations. So far as possession of the petitioners are concerned, if they are claiming the possession, then admittedly, they do not have any right, title or interest over the property; hence, the encroachers or wrong doers cannot get any right, title or interest over the property and particularly in a matter where due process was followed in acquiring the land. In view of the involvement of disputed question of facts as well as of having no material particular on record and no proof in support of any plea taken in oral arguments, we do not find any merit in these writ petitions which are accordingly dismissed.